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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHRISTOPHER A. NELSON, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

SEAGATE TECHNOLOGY LLC,

Defendant.

No. 5:16-cv-00523-RMW

PLAINTIFFS' ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED
PURSUANT TO CIVIL LOCAL RULES
3-12 AND 7-11

THIS DOCUMENT RELATES TO:

Ginsberg v. Seagate Technology LLC, Case No.
5:16-cv-00612-LHK

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Civil Local Rules 3-12 and 7-11, plaintiffs Adam Ginsberg, Dudley Lane Dortch IV, Dennis Crawford, and David Schechner (Plaintiffs), the named plaintiffs in *Ginsberg v. Seagate Technology LLC*, Case No. 5:16-cv-00612, filed February 5, 2016, currently assigned to the Honorable Lucy H. Koh, hereby submit this Administrative Motion to Consider Whether Cases Should be Related Pursuant to Civil L.R. 3-12 and 7-11. Plaintiffs request that the *Ginsberg* action be designated as related to the above lowest numbered action, *Nelson v. Seagate Technology LLC*, Case No. 5:16-cv-00523, filed February 1, 2016, which is pending before the Honorable Ronald M. Whyte. (ECF No. 11.)

MEMORANDUM OF LAW

Civil Local Rule 3-12(a) defines “related cases” as those where “(1) [t]he actions concern substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” The *Ginsberg* and *Nelson* cases meet these criteria.

The first prong of Civil Local Rule 3-12(a) is certainly satisfied; *Ginsberg* and *Nelson* involve substantially the same parties, property, transactions *and* events. Plaintiffs’ counsel in *Ginsberg* are also counsel for plaintiff in the above-captioned *Nelson* action, and the two actions assert identical claims and involve nearly identical issues of fact and law. Both suits are putative nationwide class actions brought on behalf of individuals in the United States who purchased, not for resale, at least one Barracuda 3TB Hard Disk Drive, model number ST3000DM001, or at least one external drive that contained the aforesaid Barracuda drive.¹ (ECF No. 1 at ¶ 95; *Ginsberg* Compl. at ¶ 95.) Both actions allege that the same defendant, Seagate, repeatedly failed to deliver non-defective hard drives, despite marketing the drives as innovative, fast, powerful, reliable, dependable, and having extremely low failure rates. (ECF No. 1 at ¶¶ 1-4, 20-53; *Ginsberg* Compl. at ¶¶ 1-4, 20-53.) Accordingly, both actions involve the same defendant (Seagate), proposed class members

¹ A copy of the *Ginsberg* complaint is attached as Exhibit A to the accompanying Declaration of Jeff D. Friedman in Support of Plaintiff’s Administrative Motion to Consider Whether Cases Should be Related Pursuant to Civil Local Rule 3-12, filed concurrently (*Ginsberg* Compl.).

(individuals in the United States who purchased the hard drive at issue), property (Barracuda 3TB Hard Disk Drive), and transaction or event (purchase and failure of the Barracuda 3TB Hard Disk Drive).

The second prong of Civil Local Rule 3-12(a) is also easily met. The facts underlying the *Ginsberg* and *Nelson* actions are nearly identical such that having the cases proceed before two different judges would likely entail a duplication of work and be a waste of judicial economy. *See Wade v. Roper Indus.*, No. 13-cv-03885, 2013 U.S. Dist. LEXIS 179136, at *6-7 (N.D. Cal. Dec. 20, 2013). Further, the *Ginsberg* and *Nelson* cases concern similar questions with respect to liability and class certification, and call for the determination of identical or substantially similar questions of law and fact. Both actions plead violation of California's Unfair Competition Law, California's False Advertising Law, breach of express and implied warranties, and unjust enrichment. Both lawsuits bring a claims asserting violation of state deceptive trade practices acts. Moreover, the central issue in both *Ginsberg* and *Nelson* are whether Seagate failed to deliver non-defective hard drives. Consequently, *Ginsberg* and *Nelson* will involve overlapping witnesses, experts, and discovery such that maintaining two separate actions would be an unduly burdensome duplication of labor and expense on the part of counsel and the courts. Relating *Ginsberg* to *Nelson* will promote substantial efficiency and judicial economy.

CONCLUSION

For the foregoing reasons, the relation of these two cases would prevent unduly burdensome duplication of labor, expenses, and costs, and would diminish the likelihood of inconsistent results. Plaintiff respectfully requests that the Court designate the *Ginsberg* action as related to the *Nelson* action.

DATED: February 10, 2016

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